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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,474	09/15/2003	Mari Natori	02887.0189-01	9222
22852	7590	03/23/2007	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			YAARY, MICHAEL D	
			ART UNIT	PAPER NUMBER
			2193	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/661,474	NATORI ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Michael Yaary	2193

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 15 September 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 7-10 and 12-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 7-10 and 12-15 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 15 September 2003 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    - Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    - Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>09/15/2003</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____                          |

***Detailed Action***

1. Claims 7-10 and 12-15 are pending in the application.
2. The IDS filed on 09/15/2003 has been acknowledged by examiner. However, applicant failed to provide a copy of one of the documents, M. Natori et al., "How to Achieve Framework-Centric Software Construction for Business Applications," Object World '99, Berlin, May 1999. If applicant wants examiner to consider the reference, applicant is required to resubmit new IDS and copy of this reference in response to this office action.

***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Art Unit: 2193

4. Claims 7-10 and 14-15 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3, and 8 of U.S. Patent No. 6,684,383 (hereafter '383). Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims all contain the same limitations with minor wording changes.

5. As to claims 7-8 of the instant application, the claim contains all the limitations found in claims 2-3 of '383 patent, except that the preamble in claims 2-3 of the '383 patent is directed to an "enterprise system constructing method," and not a "computer readable recording medium," as disclosed in claim 8 of the instant application. However, it would have been obvious that the computer readable recording medium of the instant application would in fact incorporate the method of the '383 patent as they both disclose the same limitations.

6. As to claim 10 of the instant application, the claim's limitations are embedded as part of the enterprise system constructing method of claim 1 of the '383 patent. Although not containing all the steps found in claim 1, step c of claim 1 of the '383 patent discloses exactly all the limitations found in claim 10 of the instant application.

7. As to claims 14 and 15 of the instant application, the claim's limitations are embedded as part of the enterprise system framework of the computer readable recording medium of claim 8 of the '383 patent. Claim 14 of the instant application corresponds exactly to claim 8, lines 4-15 of the '383 patent; and claim 15 of the instant application corresponds exactly to claim 8, lines 16-20 of the '383 patent.

***Claim Rejections - 35 USC § 101***

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. As to claims 7-10 and 12-15 the claims are rejected under 35 U.S.C. 101

because the claimed invention is directed to non-statutory subject matter.

(i) As to claims 7 and 12-14, the claims are non-statutory as they fail to produce a "useful, concrete, and tangible result." *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F. 3d 1368, 1373-74 (Fed. Cir. 1998). The claims are directed to nothing more than defining different framework systems and their attributes, thus only disclosing the different types of framework systems and their behavior, as this is no more than software per se. The claims fail to provide a useful, concrete, and tangible result using the different framework systems, and thus fail to indicate how the invention accomplishes a practical application.

(ii) Claims 8-10 and 15 are rejected for similar reasons as discussed for their respective parent claims, as they fail to present any limitations that resolve the deficiencies of the claim from which they depend.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 7, 10, 12, and 13-15 rejected under 35 U.S.C. 103(a) as being unpatentable over Misheski et al. (hereafter Misheski)(US Pat. 6,298,476). Misheski was cited in the IDS filed on 09/15/2003.

12. **As to claim 7**, Misheski discloses a computer readable recording medium, in which an enterprise system framework described by an object-oriented language is recorded (column 12, lines 22-38), said enterprise system framework comprising:

A framework which defines a basic attribute and behavior of an enterprise system (column 4, lines 40-67); various types of framework (column 4, line 40-column 5, line 31).

13. Misheski does not explicitly disclose an enterprise system basic framework, a client/server application system framework, a web application system framework, and a server application system framework as claimed. Examiner is taking official notice that various types of framework were well known in the art at the time the invention was made.

14. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Misheski, by incorporating the well-known knowledge of various types of frameworks, for the benefit of being able to meet the needs of different types of systems.

15. **As to claim 10,** the claim is rejected as to claim 7 above, and Misheski further discloses the claimed framework (column 4, lines 40-67).
16. **As to claim 12,** Misheski discloses an enterprise system basic framework (column 4, lines 40-67); a group of frameworks for various executable environments as claimed (column 4, line 40-column 5, line 31 and abstract)
17. Misheski does not explicitly disclose defining a delivery of data between systems. Examiner is taking official notice that defining a delivery of data between systems was well known in the art at the time the invention was made.
18. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Misheski, by incorporating the well known knowledge of defining delivery of data between systems, for the benefit of being able to use different types of frameworks in order to meet the need of different types of systems.
19. **As to claim 13,** the claim is rejected for the same reasons as claim 12 above.
20. **As to claims 14 and 15,** the claims are rejected for the same reasons as claim 12 above.

21. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Misheski in view of Engstrom et al. (hereafter Engstrom)(US Pat. 6,199,197). Engstrom was cited in the IDS filed on 0/15/2003.

22. **As to claim 8**, Misheski does not disclose a group of abstract classes, each of which abstractly defines an attribute and behavior of a system as claimed.

However, Engstrom discloses abstract classes (column 7, line 59-column 8, line 2).

23. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Misheski, by incorporating abstract classes, as taught by Engstrom for the benefit of providing an efficient method to access attributes without regard to the underlying mechanisms that access these attributes (Engstrom column 7, lines 61-64).

24. **As to claim 9**, the combination of Misheski and Engstrom disclose a group of abstract classes as discussed in claim 8 above. Misheski does not disclose an abstract method mixed with a concrete method.

However, Engstrom discloses abstract class mixed with a concrete class (column 10, lines 30-67).

25. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Misheski, by mixing abstract classes with concrete classes, as taught by Engstrom, for the benefit of defining methods for various types of situations.

### ***Conclusions***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Yaary whose telephone number is (571) 270-1249. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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